

REMARKS/ARGUMENT

Claim 16 has been amended herein.

Initially, Applicants would like to thank the Examiner for allowing claims 1-9 and 17, and for indicating that claim 16 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. As such, Applicants have amended claim 16 in accordance with the Examiner's request. It is respectfully submitted that the amendment does not add new matter and has adequate support in the Specification. Entry of the amendments is therefore requested.

I. REJECTIONS OF CLAIMS 10-15

Claims 10-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sekiguchi et al. (U.S. Pat. 4,821,117). Reconsideration requested again on the basis of the following additional remarks.

Claim 10 calls for a specific structure in the form of “an imaging prevention device”. It also calls for a controller that controls the imaging prevention device so as to prevent imaging by the imaging device for special observation until the first mode for conventional observation is established when the light source device irradiates the first illumination light onto the object.

The imaging prevention device and the related controller of claim 10 constitute a structure and a system that operates proactively to obtain a specific result. The instant specification very specifically points out a distinct disadvantage that can result if specific measures are not taken to prevent damage to the high-sensitivity camera under certain circumstances. See the “objects” listed at page 5 of the instant specification. This is sufficiently important that at page 11, lines 22-24, the specification points out that even when the power for the control center is turned off, a controlled shut down operation is initiated to prevent white light from impinging on the fluorescent imaging device.

In the prior Office Action of April 2, 2003, at paragraph 3, the Examiner concedes that the reference fails to explicitly state which mode is initially set when the device is powered up. The Office Action goes on, however, to argue that when there is a limited universe of potential options, one can assume that one or the other mode comes up.

Preliminarily, even if that were so, that does not teach an proactive structural element that prevents the possibility of the modes coming up in the opposite order. Therefore, this reference fails to teach the invention of claim 10.

In the present Office Action (of January 26, 2004), the Examiner points out Figures 6 and 7 of the cited reference and draws the applicant's attention to the shutters 65 and 68. The Office Action also reasons that claim 10 is met by the prior art because turning on of the pickup element 67 is prevented "by shutter 65 or the power being OFF" until the first mode has been established.

Applicant takes great umbrage at this line of reasoning. It is wholly inappropriate to discuss the equipment with the power is turned off. With the power off, none of the bare, physical elements are operable. Besides, the problem identified by the instant inventors and the solution thereof has nothing to do with the equipment being in a state where the power is already turned off. Rather, the present invention teaches a specific structure that protects the equipment from the drawback that existed in the prior art by controlling and assuring that a specific condition does not occur -- the condition is prevented.

Respectfully, carefully reviewing the cited prior art shows that the claimed structure or function does not exist in and is not taught or suggested in the prior art. Figures 6 and 7 of the cited Sekiguchi reference show the shutters 65 and 68. The text explains that these shutters are connected to the shutter switch 23 shown in the first embodiment. See column 7, lines 13-16. If we turn to Figure 1, we note that shutter switch 23, which controls these shutters, receives its input commands from the CPU 42. The CPU 42, in turn, selects the shutter switch positions based on input that it receives from the switch 43, as described at column 4, beginning at line 26. The switch 43 responds to manual inputs from an operator to select one of several different positions, as described at column 4, lines 26-44.

Therefore, as a matter of irrefutable logic, if the operator has for some reason, whether deliberate or carelessly, set the switches in certain positions, there is nothing in this reference that would prevent both shutters from being turned on simultaneously or for the shutters turning on in an order opposite from that claimed by the present invention. There is nothing in the reference relied upon which teaches a prevention mechanism in a sense of the present invention. Claims 10-15 are clearly patentable over the art of record.

As such, applicant respectfully requests that all of the claims in the application be formally allowed at this time.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 14, 2004

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